

REMARKS

Claims 1-10 and 18-25 are now pending in the application. Claims 11-17 are cancelled by this Amendment. Claims 23-25 have been withdrawn from consideration. Claims 26-28 were previously submitted, but not entered, although claim 26 now recites "less than 10 weight percent chromium" rather than less than 12. This Amendment cancels an equal number of independent claims and therefore the Applicants request that the claims 26-28 be entered for consideration. The Examiner is respectfully requested to reconsider and withdraw the rejection in view of the amendments and remarks contained herein.

The Applicant would like to thank Examiner King for the interview of August 1, 2003. During the interview Miller was discussed and the Applicant argued that Miller did not teach each of the claims as previously amended. An agreement was not reached as to the allowability of the claims.

The Applicants request that the Examiner review and reconsider the Affidavit under 37 C.F.R. 1.132 previously submitted. In addition thereto, and attached to this Amendment, is a copy of *Superalloys II*, Sims, Chester T. et. al. ed., 1987. In *Superalloys II* the composition of Waspaloy™ is disclosed to be, in weight percent, 58 Ni, 19.5 Cr, 13.5 Co, 4.3 Mo, 1.3 Al, 3.0 Ti, .08 C, and .006 B. As disclosed in the originally filed application, and as illustrated in Figure 1, the extinguishing threshold of Waspaloy™ is far below that of the alloy as presently claimed.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller et al. (U.S. Pat. No. 5,120,373). This rejection is respectfully traversed.

Claims 11-18 have been cancelled rendering the rejection thereto moot.

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Amended independent claim 1 recites an alloy with "less than 10 weight percent chromium . . . wherein said alloy includes an extinguishing threshold pressure greater than about 4000 psia." Amended independent claim 18 recites an alloy comprising "less than about 9 weight percent chromium [and] a threshold pressure at least about 4,000 pounds per square inch". The composition of Miller is substantially similar to that of Waspaloy TM. In fact Miller states that the main difference between the described composition and Waspaloy TM is the large amount of gamma prime formers and a material including a large amount of the material in the gamma prime phase. See col. 2, ln. 39-44. Also, Miller teaches a composition that includes large amounts of Chromium, at least 12 weight percent, and Molybdenum, at least 2 weight percent. Miller teaches that these elements are generally required and each is included even in the most preferred embodiments. See TABLE I col. 2. Nevertheless, as shown by the extinguishing threshold of Waspaloy TM, such a composition does not include even a similar burn resistance as the presently claimed composition. In fact the burn resistance of the presently claimed composition is several times higher for the composition presently claimed.

Further, Independent claim 26 recites "A metal alloy, consisting essentially of: . . . less than 10 weight percent chromium; . . . and less than about 10 weight percent of gamma prime formers." Miller teaches a composition having greater than 10 weight percent gamma prime formers. In fact Miller teaches the desire to increase gamma prime formers to obtain a maximum of gamma prime phase to achieve the goals of the invention, increased strength. See col. 2, ln. 39-44. Thus, Miller actually teaches away from providing a limited amount of gamma prime formers. Including a reduced amount of the gamma prime formers would destroy the intentions of Miller.

Therefore, the Applicants request that the Examiner reconsider each rejection in light of these amendments and allow each of the presently pending claims 1-10, 18-28.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 

Michael L. Taylor
Reg. No. 50,521

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

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